Henry Clinton Hutchins

A Sketch Of His Life (1896)

Alexander Strong Wheeler

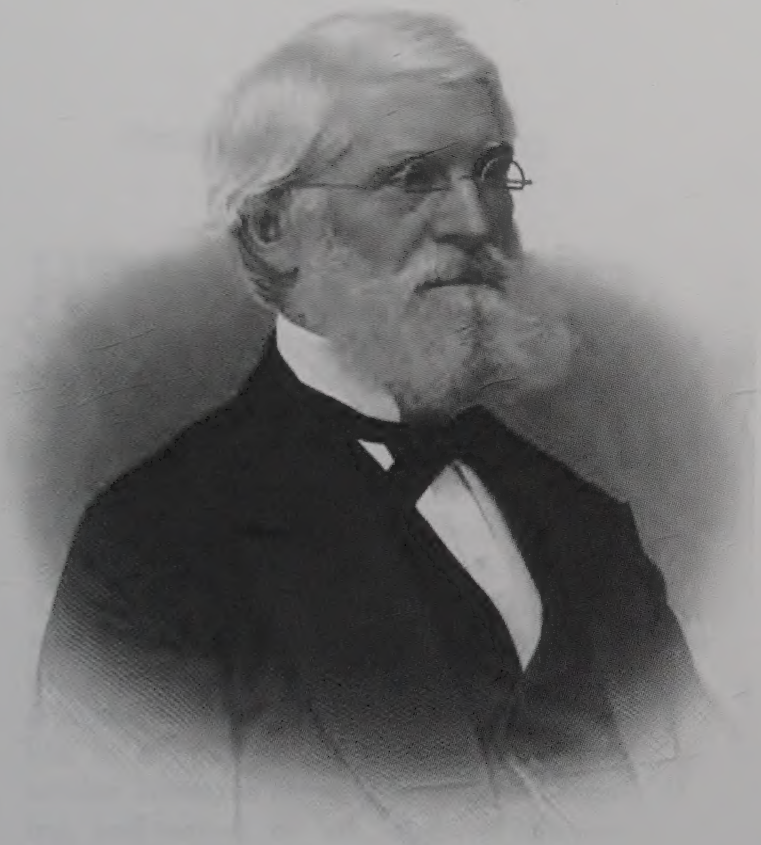
Kessinger Legacy reprints

Henry Clinton Hutchins

A SKETCH OF HIS LIFE
BY ALEXANDER S.
WHEELER

Printed for Private Distribution
M DCCC XCVI

In the interest of creating a more extensive selection of rare historical book reprints, we have chosen to reproduce this title even though it may possibly have occasional imperfections such as missing and blurred pages, missing text, poor pictures, markings, dark backgrounds and other reproduction issues beyond our control. Because this work is culturally important, we have made it available as a part of our commitment to protecting, preserving and promoting the world's literature. Thank you for your understanding.



Henry C. Hulbert

Henry Clinton Hutchins

HENRY CLINTON HUTCHINS was born at Bath, New Hampshire, on the seventh day of August, 1820. He was of pure New England blood, being descended on both sides from the early settlers of this country. His father, Hon. Samuel Hutchins, was born in Haverhill, Massachusetts, and his mother, Rosanna Child, was born in Woodstock, Connecticut. His grandfather, Jeremiah Hutchins, removed from Haverhill to Bath in 1783, with a family of twelve children, the youngest twins, of whom Samuel was one. Samuel Hutchins resided during the remainder of his life, in Bath, where, in connection with his brother James, he engaged in trade and farming, and carried on an extensive business, which was prosecuted with great success. He was one of the leading and most influential men of the town and vicinity. He died in 1830, leaving a widow and twelve children, of whom the subject of this sketch was the

youngest, and, at his death, the last survivor. Henry C. Hutchins grew up in the bracing atmosphere of New Hampshire. His companions were New Hampshire boys, with no admixture of foreign element. His parents were persons of strong and decided character, who believed in the stern discipline of those days, and carried out that belief in life and action. Undoubtedly the influences affecting him in his childhood and boyhood had much to do with the formation of his character, and with his whole life in after years. He became a typical example of the best class of the New England men of his generation. He passed through the ordinary course of preparation for college in the academies at Haverhill and Newbury, and entered Dartmouth College in 1836, of which Dr. Nathan Lord was President, and graduated in 1840. Dr. Lord was opposed on principle to the strife for college honors as an incitement to diligence in study, and shortly after his accession to the presidency, all distinctions of that character were abandoned. There was no rank list, and "the parts," as they were called, for Commencement, were assigned by lot. Hutchins was strict in the discharge of his duties, and for the first three years was never

absent from prayers or any college exercise, and omitted but very few in his Senior year. He left college with his degree, the only honor then attainable. Shortly after graduation, he entered the office of the Hon. Joseph Bell, at Haverhill, where he commenced and continued the study of the law for upwards of a year, when he entered the Law School of Harvard University. Judge Joseph Story and Simon Greenleaf were the professors, — men eminent in the profession for learning and ability, and who as teachers won the affection as well as respect of several generations of pupils. I look back with something of surprise as well as pleasure as I call to mind the zeal and interest they showed in their work as teachers. While we never forgot that one was a great judge, and both jurists of the highest class, we felt that they were with us heart and soul in our work as students, and desirous of rendering us all the assistance in their power to help us on the way to become lawyers worthy of the name. Hutchins shared in the enthusiasm which they seemed to impart to the great mass of the members of the School, and pursued his studies with untiring diligence. From the Law School he entered the office of Hubbard & Watts, of Boston, lawyers in large practice, and Novem-

ber 14, 1843, was admitted to the bar of Massachusetts.

On the first day of January, 1844, he formed a partnership with the writer, an old schoolfriend and classmate, under the firm name of Hutchins & Wheeler, which continued until his death, nearly fifty-one years; which is believed to be a longer term than that of any other law partnership in Massachusetts.

The life of a lawyer who devotes himself mainly to his profession is uneventful, in the ordinary sense of that word. He is devoted to the interests of his clients, and his time is occupied in the study of the questions that arise, in the examination of the law and preparation for trial, and, in the cities, largely in giving opinions and advising corporations and individuals in business affairs. Mr. Hutchins soon acquired a considerable practice, which rapidly increased until he had full occupation and a large circle of clients. He had not only a sound judgment and vigorous intellect, but he seemed almost intuitively to fall into the methods of legal reasoning. When engaged upon a legal question he would not let it go until he had fathomed its depths, learned all the law applicable to it, and solved the problem as far as possible. His arguments in the

Supreme Court of the United States, and the Supreme Judicial Court of Massachusetts, were always listened to by the members of those courts with attention and respect. One of his early arguments before the Massachusetts Court, on a very abstruse and difficult question of the law of real property, elicited — what was then very unusual — a compliment from Chief Justice Shaw for its ability and exhaustive character.

Among the cases argued by Mr. Hutchins in the Supreme Court of the United States may be mentioned White *v.* Vermont & Massachusetts R. R., the earliest case in that court establishing the negotiability of railroad bonds; Emerson *v.* Slater, an important case upon the Statute of Frauds; Baldwin *v.* Hale, involving the question of the effect of state insolvent laws upon the contracts of citizens of other States; Bank of Newbury *v.* Baldwin, involving the right of a bank to sue on a note payable to its cashier; and National Bank of Commerce *v.* Merchants' National Bank, a leading case upon the duty of banks receiving drafts for collection with bills of lading attached.

Among the numerous cases argued by Mr. Hutchins in the Supreme Court of Massachusetts, of general interest, are Dabney *v.* New

England Insurance Company, in which it was for the first time decided that a jettison of cargo by the captain of a vessel, to save the lives of the passengers and crew of another vessel in distress, will not entitle the owner of the vessel to recover upon a policy of insurance for a general average contribution; the case of Pierce *v.* Columbian Insurance Company, in which a novel question was presented whether the owner of a cargo could recover, upon a policy of insurance against total loss, only when the vessel in which the cargo was shipped was condemned as unseaworthy, and the cargo transshipped into two vessels, one of which was lost and the other arrived in safety; and Bank of North America *v.* Bangs, a leading case as to the right of a bank to recover money paid upon a forged check.

As matter of course, the service he rendered his clients won their confidence, and their esteem and good-will as well. He took a deep personal interest in whatever was intrusted to him, and his clients felt and appreciated that he labored not merely for the pecuniary compensation they paid him, but to do the best and utmost in his power to serve them, and that not only by advice sound in reference to the legal aspect of any questions arising, but

also by wise and judicious counsel as to the proper course to be pursued in matters quite independent of those involving purely legal rights and obligations, and in regard to which lawyers not infrequently think it quite unnecessary to trouble or concern themselves. Mr. Hutchins gave to every subject presented to him the most careful consideration of which he was capable, and formed his opinion only after exhaustive research and mature reflection. He adhered to his opinion, when formed, with great tenacity, and was ready to take the responsibility, whatever it might be, of acting in accordance with his views. There was no halting or vacillation in the advice he gave to his clients, who were always impressed by his confidence that he was in the right, and usually acted accordingly, and rarely, if ever, found their confidence misplaced.

It is quite superfluous to say that he was a man of strict integrity. No man can pursue the career he did, and as he did, unless there is an underlying sense of rectitude which governs his action. As for anything in the way of deceit or trickery, it was utterly foreign to his nature. He was a lawyer of that elevated tone of character which makes the profession dignified, and perhaps as much as anything

else gives it the position it holds among the different fields of human activity.

Mr. Hutchins had long been of opinion that many cases involving issues of fact could be more satisfactorily tried by the Court without the intervention of a jury, and that both time and expense could also be thus saved; and in 1855 he suggested and urged the passage of the Act of the Legislature of that year to provide for the waiver of trial by jury. The operation of this Act was so satisfactory that in 1874 the Legislature passed an Act that all cases should be tried by the Court unless trial by jury should be claimed by some party to the action. There was no act of Mr. Hutchins's professional life that gave him more satisfaction than this.

Some circumstances connected with the relations between the writer and Mr. Hutchins are so unusual that it seems proper to allude to them. We were born on the same day, and met for the first time at the Haverhill Academy in the year 1833. A friendship immediately sprung up, which proved to be more than that ordinarily existing between schoolboys. We were classmates and room-mates in college, and decided, before graduating, that, whatever might be our pursuit in life, we

would work together. Finally determining to study law, we concluded to settle in Boston, and January 1, 1844 (the day the writer was admitted to the bar), we took an office as partners at No. 20 Court Street; and this connection continued, as above stated, until Mr. Hutchins's death. We literally worked together. For many years, no process or instrument was ever allowed to leave the office unless after examination by both, when such examination was possible. So, in the preparation of causes of any importance for trial, each endeavored to supplement the work of the other, and thus to give to the client all that each could contribute for his advantage. It is thought that whatever success the firm attained was, in some degree at least, owing to the harmonious action of two minds, and, perhaps it is not too much to say, each one always striving to do his best. So far as his personal interest was concerned, neither ever for a moment considered whether the association was to his advantage. Other and totally different reasons and motives kept us together in our lifelong connection.

Mr. Hutchins never held political office. He took an interest in politics, and entertained decided opinions on all the questions that

arose during his life, and gave expression to those opinions at the polls, but went no further. And this for two reasons: first, he fully agreed with the old and familiar saying that the law is "a jealous mistress," and his pursuit of the profession left neither time nor strength for the strifes or duties of political life; and, in the second place, he was utterly disinclined to political life. His sturdy feeling of independence would probably have interfered with success as a politician, and he preferred that the duties of a politician should be performed, and its honors enjoyed, by others than himself.

Mr. Hutchins was for two years President of the Bar Association of the city of Boston, — an institution in which he took great interest, and to the affairs of which he gave much attention, and which he remembered generously in his will, — as also the Suffolk Social Law Library, of which he was for many years a trustee.

He was an active and a useful member of the Corporation of the Church of the Advent, in Boston; and many business corporations had the advantage of his judicious counsels on business affairs, quite outside of legal advice.

While he was prudent in all personal expenditure of money, he was a liberal contributor to various institutions and private individuals. This was done so quietly and unostentatiously that few others than the recipients were aware of his gifts.

Mr. Hutchins married, October 9, 1845, Mary Louise Grout, of Bellows Falls, Vermont, who died January 5, 1883. He had two children, — one, Harry Grout, who died in childhood; the other, Edward Webster, who embraced the profession of his father, and in 1876 was admitted to the bar and became a member of the firm of Hutchins & Wheeler. Five years later, the writer's only son was admitted to the bar and became a member of the firm.

In November, 1888, Mr. Hutchins was prostrated by disease of the heart, from which he never recovered. During the remaining years of his life, he was a great sufferer. He endured his sufferings with a fortitude truly heroic. Hardly, if ever, did a murmur of complaint escape his lips. His mind remained clear and his judgment sound till the last few days of his life. On the 28th day of October, 1894, he quietly passed away, leaving a large

circle of relatives and friends to mourn his loss, and an honorable name and a reputation untarnished by a single act that his son or his grandchildren would wish to have blotted from memory.

RESOLUTIONS

ADOPTED BY THE BAR ASSOCIATION OF THE CITY OF BOSTON,

JANUARY 5, 1895.

Henry Clinton Hutchins was born in Bath, N. H., August 7, 1820. He graduated at Dartmouth College in 1840; studied law in the office of Joseph Bell in Haverhill, N. H.; at the Law School of Harvard College, under Judge Story and Mr. Greenleaf; and in the office of Messrs. Hubbard & Watts, in Boston. He was admitted to practice November 14, 1843; and entered into a partnership with Mr. Wheeler, January 1, 1844, which continued for more than fifty years until his death, October 28, 1894.

Mr. Hutchins may be presented to our younger brethren, who may not have had his personal acquaintance, as a worthy model of all that a lawyer should be.

Satisfied with the prizes which his profession affords, he gave to his exacting mistress, the law, no cause for jealousy, and sought no distinction in other fields.

In his profession he was not distinguished as an advocate, nor specially skilled in the trial of causes before a jury; but he studied the law of his case

diligently, and presented it in a clear and cogent style, which at all times commanded the attention and respect of any tribunal before which he appeared.

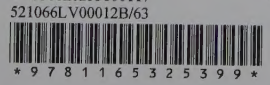
His most valuable services, at least of late years, were rendered as a counselor and adviser; and his strength lay in his clear discrimination and knowledge of business, and the readiness and accuracy with which he applied the rules of law to the affairs of men, which made him the wise and safe guide of many clients, and the peer of any of his contemporaries in this important branch of the profession.

His opinions in matters of business were promptly formed, strongly held, and earnestly, sometimes vehemently, expressed, which inspired a confidence which their soundness justified.

He was the trusted counselor of many of our prominent business men and corporations in matters of high importance, and did his share to give the right trend to the mercantile customs and usages of the street, in his day and generation.

In this place we cannot forget that he has taken a great interest in this Association from the beginning, giving to it not only of his money in generous proportion, but also of his time and services as its Vice-President and President. He had also for many years been an active Trustee of the Social Law Library, and that Association and our own have received since his death substantial tokens of his good-will, and of his interest in the profession for whose benefit they are established.

CPSIA information can be obtained
at www.ICGtesting.com
Printed in the USA
LVIC06n0253160117
521066LV00012B/63



ISBN 9781165325399

DB9880762S

KESSINGER PUBLISHING®, LLC
WWW.KESSINGER.NET

W9-CIZ-633